

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

Firearm Owners Against Crime,	:	1:15-cv-322
Kim Stolfer, Joshua First, and	:	
Howard Bullock,	:	
Plaintiffs	:	(Judge Kane)
v.	:	
City of Harrisburg,	:	
Mayor Eric Papenfuse, and	:	
Police Chief Thomas Carter,	:	
Defendants	:	Jury Trial Demanded

Brief in Opposition to
Motion to Amend Complaint

This Court can deny leave to amend because amendment is futile. *Burlington Coat Factory Sec. Litig.*, 114 F.3d 1410, 1434 (3d Cir. 1997). Plaintiffs waived the damages claim by failing to oppose dismissal of that claim for relief. *Frey v. Grumbine's RV*, 2010 WL 4718750, at *8 (M.D. Pa. Nov. 15, 2010). Accordingly, amendment to remove that claim is unnecessary.

Amendment would also delay the case by mooted the motion to dismiss the original Complaint. *Bullock v. Ashcroft*, 2006 WL 1670278, at *2 (M.D. Pa. June 15, 2006) (“If the Court were to accept Plaintiff’s third and/or fourth amended complaints, Defendant’s motion to dismiss or, in the alternative for summary judgment with respect to the second

amended complaint will be rendered moot.”). As amendment would only delay resolution of this case, this Court should deny amendment.

Respectfully submitted,

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Dated: May 28, 2015

Certificate of Service

I certify that on this date, I served a true and correct copy of this filing through this Court's ECF to the following:

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s/ Amyra W. Wagner
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Dated: May 28, 2015